

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE A.J. SADASHIVA

WRIT PETITION No. 6225/1995

BETWEEN:

Kamakshi Amma(Adult) w/o
Vamana Shenoy, Nalkedabettu,
Nitte Village, Karkala Tq.,
D.K., rep by her Power of
Attorney Holder N.Keshav Shenoy,
s/o Vamana Shenoy, Nalkedabettu,
Nitte Village, Karkala Tq., D.K.,

since deceased by her L.Rs:-

1. Meenakshi, aged about 50 yrs.,
w/o Nagesh Kini.
2. Ganesh Shenoy, aged about
43 yrs., s/o Late Vamana Shenoy.
3. N.Madhava Shenoy, aged about
41 yrs., s/o Late Vamana Shenoy.
4. N.Gopala Shenoy, aged about
38 yrs., s/o Late Vamana Shenoy.
5. N.Keshava Shenoy, aged about
35 yrs., s/o Late Vamana Shenoy.
6. N.Ananda Shenoy, aged about 30
yrs., s/o Late Vamana Shenoy.

Petitioners
(1) to (6)
amended as per
Court Order dt.
13.2.1998.

All are r/o Nalkedabettu in Nitte
Village, Karkala Tq., Post Nitte,
Udupi Dist.,

.. Petitioners

(By Sri V.V.Upadhyaya, Adv.,)

34/6

2

AND:

1. The State of Karnataka rep by the Deputy Commissioner, Dakshina Kannada, Mangalore, D.K.
2. The Land Acquisition Officer & the Asst. Commissioner, Kundapura Division, Kundapura, D.K.,
3. The Asst. Executive Engineer, No.3 Sub-Division, Public Works Department, Karkala, D.K., .. Respondents

(By Sri K.H.Jagadish, GA)

This Writ Petition filed under Articles 226 and 227 of the Constitution of India, praying to declare the acquisition proceedings as invalid and quash the demand for possession of the schedule lands as disclosed under notice dt. 22.2.95 and 25.2.95 at Annex-F & H and etc.,

This Writ Petition coming on for final disposal this day, the Court made the following :-

O R D E R

The petitioner has filed this petition under Articles 226 of the Constitution of India to declare the acquisition proceedings relating to her land measuring 25 cents in 256/4c as invalid and to quash the notices dated February 22, 1995 and February 25, 1995 as per Annexures-F & H respectively by the Asst. Executive Engineer-respondent No.3.

1/2

349

3

2. The petitioner appear to have undertaken construction in Sy.No. 256 of Nitte Village which is stated to have been acquired for construction of Padubidre-Kottigehara Road. In view of commencement of construction by the petitioner, the third respondent issued notice as per Annex-F and H requiring her to stop the construction inter alia holding that she is constructing building unauthorisedly in the land acquired and on her failure necessary action would be taken to demolish the same at her costs. Aggrieved by the said notice, the petitioner has filed this petition for the reliefs mentioned in the first paragraph of this order.

3. This petition is liable to be dismissed for want of particulars in regard to the acquisition. The petitioner has not furnished the particulars as regards the date and number of notification under which her land is stated to have been acquired. No material is also produced in respect of her attempt to secure the particulars of acquisition proceedings. Not even a demand is stated to have been made for furnishing the particulars of the acquisition.

b2

39

In the absence of particulars of acquisition by its notification date and number and the purpose for which the land was acquired, the petitioner cannot maintain this petition for want of cause of action. This petition is, therefore, liable to be dismissed for want of particulars relating to the cause of action and the relief to be granted.

4. In the result, this petition fails and accordingly dismissed. Rule discharged, leaving liberty to the petitioner to initiate such proceedings as permissible in law to get her right protected in respect of the schedule property if she has any.
5. In the circumstances of the case, there is no order as to costs.
6. Sri.K.H.Jagadish, the learned HCGA, is permitted to file memo of appearance within four weeks.

ckl/5698



Sd/-
JUDGE